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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/647,800

08/25/2003

Vittorio Castelli

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06/08/2006

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EXAMINER

WALLING, MEAGAN S

ART UNIT

PAPER NUMBER

2863

DATE MAILED: 06/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/647,800

Applicant(s)

CASTELLI ET AL.

Examiner

Meagan S. Walling

Art Unit

2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2003.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1, 4, 8, 11, 12, 15-17 and 20 is/are rejected.  
7) ☒ Claim(s) 2, 3, 5-7, 9, 10, 13, 14, 18 and 19 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 8/25/03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 4, 8, 11, 12, 15-17, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Sipple et al. (US 6,405,327).

Regarding claim 1, Sipple et al. teaches monitoring with successive measurements a utilization parameter of a system resource (column 3, lines 38-40); computing a change parameter by comparing the differences between successive measurements of the utilization parameter (column 3, lines 20-25 and 58-60); comparing the change parameter to a threshold change parameter (column 3, lines 20-25); and reporting a resource bottleneck if the change parameter exceeds the threshold change parameter (column 3, lines 43-44).

Regarding claim 4, Sipple et al. teaches delaying reporting the resource bottleneck until the change parameter exceeds the threshold change parameter on at least one successive measurements (column 9, lines 42-48).

Regarding claim 8, Sipple et al. teaches a computer useable medium having computer readable code (column 1, line 8) means embodied thereon for causing a computer to execute a method for detecting and forecasting resource bottlenecks of a computer system, the computer readable code means in the computer program product including: computer readable program code means for causing a computer to monitor with successive measurements a utilization

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parameter of a system resource (column 3, lines 38-41); computer readable program code means for causing a computer to compute a change parameter by comparing the differences between successive measurements of the utilization parameter (column 3, lines 20-25 and 58-60); computer readable program code means for causing a computer to compare the change parameter to a threshold change parameter (column 3, lines 20-25); and computer readable program code means for causing a computer to report a resource bottleneck if the change parameter exceeds the threshold change parameter (column 3, lines 43-44).

Regarding claim 11, Sipple et al. teaches that the resource bottleneck is not reported until the change parameter exceeds the threshold change parameter on at least one successive measurement (column 9, lines 42-48).

Regarding claim 12, Sipple et al. teaches that the utilization parameter is the average utilization of the system resource for a time period (column 8, lines 56-60).

Regarding claim 15, Sipple et al. teaches a processor (16); and a program code (column 1, line 8) executed on the processor for detecting and forecasting resource bottlenecks, the program code including code for: monitoring with successive measurements a utilization parameter of a system resource (column 3, lines 38-41); computing a change parameter by comparing the differences between successive measurements of the utilization parameter (column 3, lines 20-25 and 58-60); comparing the change parameter to a threshold change parameter (column 3, lines 20-25); and predicting a resource bottleneck if the change parameter exceeds the threshold change parameter (column 3, lines 43-44).

Regarding claim 16, Sipple et al. teaches code for determining a corrective action to avoid the resource bottleneck (column 11, lines 61-63).

Regarding claim 17, Sipple et al. teaches that the data processing system is a server within a LAN network and the utilization parameter is a percentage of CPU utilization (column 2, line 2 and column 3, line 21).

Regarding claim 20, Sipple et al. teaches code for reporting the resource bottleneck if the change parameter exceeds the threshold change parameter on at least one successive measurement (column 9, lines 42-48).

*Allowable Subject Matter*

2. Claims 2, 3, 5-7, 9, 10, 13, 14, 18, and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The primary reason for the indication of allowable subject matter in claim 2 is the inclusion of the limitation of detecting false bottleneck alarms and modifying the threshold change parameter based on the false bottleneck alarms to decrease a sensitivity of the method. It is this limitation in the claimed combination that has not been found, taught, or suggested by the prior art that makes these claims allowable.

The primary reason for the indication of allowable subject matter in claim 3 is the inclusion of the limitation of detecting bottlenecks that are not reported resource bottlenecks and modifying the threshold change parameter based on detecting bottlenecks that are not reported resource bottlenecks to increase a sensitivity of the method. It is this limitation in the claimed

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combination that has not been found, taught, or suggested by the prior art that makes these claims allowable.

The primary reason for the indication of allowable subject matter in claim 5 is the inclusion of the limitation that the utilization parameter includes an average utilization of the system resource for a time period and wherein computing a change parameter by comparing the differences between successive measurements of the utilization parameter comprises subtracting successive measurements of the utilization parameter, and wherein the utilization parameter is distributed in sequentially consecutive utilization classes of increasing utilization, the average utilization for each time period being established for each utilization class, and wherein computing the change parameter comprises comparing the difference between average utilization for consecutive classes at least at two different time periods. It is this limitation in the claimed combination that has not been found, taught, or suggested by the prior art that makes these claims allowable.

The primary reason for the indication of allowable subject matter in claim 6 is the inclusion of the limitation that the utilization parameter includes a standard deviation of the utilization of the system resource for a time period and wherein computing a change parameter by comparing the differences between successive measurements of the utilization parameter comprises determining if the utilization of the system is increasing and the standard deviation of the utilization of the system resource is decreasing based on the successive measurements. It is this limitation in the claimed combination that has not been found, taught, or suggested by the prior art that makes these claims allowable.

The primary reason for the indication of allowable subject matter in claim 7 is the inclusion of the limitation that the utilization parameter is the median load of the utilization of the system resource for a time period and wherein computing a change parameter by comparing the differences between successive measurements of the utilization parameter comprises determining if the median load is less than the utilization of the system and then greater than the utilization of the system on a successive measurement. It is this limitation in the claimed combination that has not been found, taught, or suggested by the prior art that makes these claims allowable.

The primary reason for the indication of allowable subject matter in claim 9 is the inclusion of the limitation of computer readable program code means for causing a computer to detect false bottleneck alarms and to modify the threshold change parameter based on the false bottleneck alarms to decrease a sensitivity. It is this limitation in the claimed combination that has not been found, taught, or suggested by the prior art that makes these claims allowable.

The primary reason for the indication of allowable subject matter in claim 10 is the inclusion of the limitation of computer readable program code means for causing a computer to detect bottlenecks that are not reported resource bottlenecks and to modify the threshold change parameter based on detected bottlenecks that are not reported resource bottlenecks to increase a sensitivity. It is this limitation in the claimed combination that has not been found, taught, or suggested by the prior art that makes these claims allowable.

The primary reason for the indication of allowable subject matter in claim 13 is the inclusion of the limitation that the utilization parameter is the standard deviation of the utilization

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of the system resource for a time period. It is this limitation in the claimed combination that has not been found, taught, or suggested by the prior art that makes these claims allowable.

The primary reason for the indication of allowable subject matter in claim 14 is the inclusion of the limitation that the utilization parameter is the median load of the utilization of the system resource for a time period. It is this limitation in the claimed combination that has not been found, taught, or suggested by the prior art that makes these claims allowable.

The primary reason for the indication of allowable subject matter in claim 18 is the inclusion of the limitation of code for detecting false bottleneck alarms and modifying the threshold change parameter based on the false bottleneck alarms to decrease a sensitivity. It is this limitation in the claimed combination that has not been found, taught, or suggested by the prior art that makes these claims allowable.

The primary reason for the indication of allowable subject matter in claim 19 is the inclusion of the limitation of code for detecting bottlenecks that are not reported resource bottlenecks and modifying the threshold change parameter based on detecting bottlenecks that are not reported resource bottlenecks to increase a sensitivity of the method. It is this limitation in the claimed combination that has not been found, taught, or suggested by the prior art that makes these claims allowable.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meagan S. Walling whose telephone number is (571) 272-2283.

The examiner can normally be reached on Monday through Friday 8:30 AM to 5 PM.



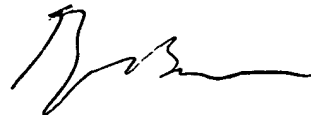
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

msw

BRYAN BUI  
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'Bryan Bui', with a stylized flourish at the end.